

**DURHAM, NORTH CAROLINA
TUESDAY, JANUARY 18, 2000
7:30 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Absent: Council Member Langley.

Also present: City Manager P. Lamont Ewell, City Attorney Henry Blinder, Acting City Clerk D. Ann Gray and Administrative Assistant Linda E. Bratcher.

Mayor Tennyson called the meeting to order. The Mayor recognized Hildegard Ryals of the Durham Inventory Review Committee for comments. The Mayor noted that Mayor Pro Tempore Clement was awarded the "Keeper of the Dream Award" recently.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Ewell informed the council that as of this morning there were over 200 accidents reported due the inclement weather. Also, City Manager Ewell requested that GBA #12 [Revocation of Taxicab Driver Permit] be deferred to the February 7, 2000 City Council Meeting.

There were no priority items from the City Attorney and City Clerk.

Mayor Tennyson asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. The Mayor noted the revisions to the Consent Agenda made at the Committee-of-the-Whole Meeting.

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to approve the Consent Agenda as amended was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

[CONSENT AGENDA]

SUBJECT: FINAL APPROVAL FOR THE ALLOCATION OF 1996 HOUSING BOND FUNDS TO UW2, LLC FOR THE ACQUISITION AND REHABILITATION OF MAPLEWOOD APARTMENTS

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to authorize the City Manager to execute a Loan Agreement with UW2, LLC for the purchase and acquisition of Maplewood

Apartments in the amount of \$758,000 to benefit persons at low to median income levels; and to execute related loan closing documents; and

To authorize the City Manager to modify the Loan Agreement, Promissory Note, and related closing documents before execution, so long as the modifications do not increase the dollar amount of the City's participation, do not lessen the obligations of the developer, and are consistent with the general intent of the existing loan documents and the City's affordable housing policies; and

To determine and find that funding for this rental housing project is not otherwise available, wholly or in part, from other public or private lenders upon equivalent or reasonably equivalent terms and conditions was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: RESOLUTION AMENDING RESOLUTION 8573, AS AMENDED ESTABLISHING FY 1999-00 FINANCIAL PLANS FOR INTERNAL SERVICE FUNDS

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to adopt a "Resolution Amending Resolution 8573, as Amended Establishing FY 1999-00 Financial Plans for Internal Service Funds" was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: FUTURE SEARCH - SOLID WASTE MANAGEMENT OPTIONS

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to receive an update concerning the future search strategic planning exercise scheduled the afternoon of February 23, all day February 24, and the morning of February 25, 2000; and

To designate Council Members Pamela Blyth and Floyd B. McKissick, Jr. to attend the session--in accordance with resolution adopted September 9, 1999 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: DURHAM COUNTY INVENTORY OF IMPORTANT NATURAL AREAS,

**PLANTS AND WILDLIFE, DURHAM, NORTH CAROLINA, JANUARY
2000**

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to adopt a resolution officially accepting the Durham County Inventory of Important Natural Areas, Plants and Wildlife, January 2000 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: MAYOR'S NOMINATION TO THE DURHAM BOARD OF ADJUSTMENT

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to approve the Mayor's nomination of Louis Goetz to the Durham Board of Adjustment--term to expire June 30, 2002 was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: RESOLUTION HONORING GARY HOCK

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to direct the City Clerk to draft a resolution honoring Gary Hock for his generous gift of \$25,000 to needy families at Christmas time was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

**SUBJECT: CONTRACT WITH PATON-ZUCCHINO & ASSOCIATES FOR
CONSULTING ASSISTANCE FOR PREPARING A DESIGN AND LAND
USE PLAN FOR I-40/NC 54 CORRIDOR**

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to authorize the City Manager to enter into a contract with Paton-Zucchini & Associates in an amount not to exceed \$30,000 for consulting assistance for performing the I-40/ NC 54 Corridor Design and Land Use Plan for Durham's Southpoint sub-area was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

**SUBJECT: ELECTRICAL CONTRACT FOR THE SOLID WASTE ADMINISTRATION
FACILITY**

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to reject all bids received for the electrical contract and to authorize rebidding of the contract was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT - EVERGREENS AT MT. MORIAH, LLC

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to authorize the City Manager to enter into a Water and Sewer Extension Agreement with Evergreens at Mt. Moriah, LLC to extend City water and sewer to serve a 64-acre, 270 unit multifamily apartment complex located on the east side of Mt. Moriah Road was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: SEWER EXTENSION AGREEMENT - ELLIS ROAD SITE, W. P. EAST ACQUISITIONS, LLC

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to authorize the City Manager to enter into a Sewer Extension Agreement with W. P. East Acquisitions, LLC to extend City sewer to serve a 50.87-acre, 370 unit multifamily and office site located east of Ellis Road at So Hi Drive was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT - GLENN ROAD SUBDIVISION, CIMLAND, LLC

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to authorize the City Manager to enter into Water and Sewer Extension Agreement with Cimland, LLC to extend City water and sewer to serve the Glenn Road Subdivision, a 154-acre single family subdivision located on both sides of Glenn Road south of Stallings Road was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

**SUBJECT: CONTRACT SR-21 - SEWER OUTFALL RESTORATION, PARK
CONSTRUCTION CORPORATION**

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to authorize the City Manager to execute a contract with Park Construction Corporation for Contract SR-21 - Sewer Outfall Restoration was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

**SUBJECT: CONTRACT FOR GENERAL CONSTRUCTION FOR FIRE STATION 14 -
UMSTEAD AND BIVINS ROADS INTERSECTION, RIGGS-HARROD
BUILDERS, INC.**

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to authorize the City Manager to execute a contract with Riggs-Harrod Builders, Inc. in the amount of \$809,576, plus \$60,000 for contingency costs, for the construction of Fire Station 14 at the Umstead and Bivins Roads Intersection site; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

**SUBJECT: CONTRACT FOR RENOVATION OF CITY ADMINISTRATIVE OFFICES,
D. W. WARD CONSTRUCTION COMPANY, INC.**

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to authorize the City Manager to enter into a contract with D. W. Ward Construction Company, Inc. in the amount of \$207,755 to renovate the City of Durham's administrative offices on the second floor of City Hall and to authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the existing version of the contract was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: RESOLUTION HONORING C. C. MALONE, JR.

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to direct the City Clerk to draft a resolution honoring C. C. Malone, Jr. on his retirement; and

To adopt a "Resolution Honoring C. C. Malone, Jr. on His Retirement was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: NO PARKING - OVERHILL TERRACE

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to adopt an ordinance to repeal Ordinance #3533, adopted July 3, 1972, which authorized the installation of no parking signs on the west side of Overhill Terrace in the area beginning at a point 150 feet north of the north curb line of East Forest Hills Boulevard, if extended, and extending from that point to the west curb line of Enterprise Street, if extended; and

To adopt an ordinance prohibiting parking on the west side of Overhill Terrace in the area beginning at the north curb line of East Forest Hills Boulevard, if extended, and extending for a distance of 105 feet northwardly was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: STOP SIGNS - GRANDOVER SUBDIVISION

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to adopt an ordinance authorizing the installation of stop signs at the following locations was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

- a. Accura Court at Mystic Court, southeast corner;
- b. Accura Court at Mystic Court, northwest corner;
- c. Planters Court at Redding Lane, northeast corner;
- d. Planters Court at Redding Lane, southwest corner; and
- e. Redding Lane at Mystic Court, southeast corner.

SUBJECT: CONTROLLED PARKING RESIDENTIAL AREAS - DUPREE STREET

To adopt an ordinance to establish a Controlled Parking Residential Area on both sides of Dupree Street between Lincoln Street and Alston Avenue.

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to refer this item to the administration was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: CONTROLLED PARKING RESIDENTIAL AREAS - CECIL STREET

To adopt an ordinance to establish a Controlled Parking Residential Area on the north side of Cecil Street between Lincoln Street and Fayetteville Street.

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to refer this item to the administration was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: SETTING PUBLIC HEARINGS TO CONSIDER ORDERING CERTAIN IMPROVEMENTS UNDER THE ENABLING ACT AUTHORITY

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to adopt resolutions setting public hearings on Monday, February 7, 2000, to consider ordering the following improvements under the Enabling Act Authority was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

- a. **Sewer Main - Marywood Drive** from Leah Lane to Rose of Sharon Road and **Rose of Sharon Road** from Marywood Drive to south property line of Tax Map 773-1-7; and
- b. **Water Main - NC Highway 55** from the north property line of Tax Map 541-2-2 to south property line of Tax Map 541-1-2.

SUBJECT: STREET ACCEPTANCE

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to accept certain streets, as listed below, for maintenance by the City of Durham was approved at 7:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

- 1) **Oak Grove Parkway** - from the west curbline of Stallings Road west to the end of Phase II @ STA 29+00 (3,336'); and
- 2) **Stoney Drive** - from the centerline of Oak Grove Parkway south thru the cul-de-sac (966'); and
- 3) **Gwendolyn Circle** - from the centerline of Stoney Glen Drive south thru the cul-de-sac (617'); and
- 4) **Briarhaven Drive** - from the centerline of Oak Grove Parkway east then north thru the cul-de-sac (969'); and
- 5) **Stoneleigh Court** - from the centerline of Gwendolyn Circle south thru the cul-de-sac (162'); and
- 6) **Heatherstone Court** - from the centerline of Briarhaven Drive north thru the cul-de-sac (134'); and
- 7) **Willowbrook Drive** - from the centerline of Oak Grove Parkway north to the centerline of Briarhaven Drive (360'); and
- 8) **Cayman Court** - from the centerline of Willowbrook Drive east thru the cul-de-sac (139').

[GENERAL BUSINESS AGENDA]

Discussion was held by Council on continuing the following public hearings to the January 31, 2000 special meeting or the February 7, 2000 regularly scheduled meeting.

[PUBLIC HEARINGS]

SUBJECT: FISCAL YEAR 2000-2001 BUDGET AND FISCAL YEAR 2001-2002 RESOURCE ALLOCATION PLAN

To receive citizens' comments concerning the FY 2000-2001 Budget and FY 2001-2002 Resource Allocation Plan.

Mayor Tennyson opened the public hearing.

MOTION by Council Member McKissick seconded by Council Member Wagstaff to continue public hearing on this item to the February 7, 2000 City Council Meeting without further advertising was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: 2000-2005 CONSOLIDATED PLAN

To receive citizens' comments on needs in Durham concerning Community Development Block Grant and HOME Programs for program year 2000-2005 and to receive proposals to address these needs for the 2000-2001 program year.

Mayor Tennyson opened the public hearing.

MOTION by Council Member Larson seconded by Council Member Jacobs to continue public hearing on this item to the February 7, 2000 City Council Meeting without further advertising was approved at 7:48 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: VOLUNTARY ANNEXATION PETITION - EVERGREENS AT MT. MORIAH (FY 2000-09)

To receive citizens' comments concerning the annexation of Evergreens at Mt. Moriah, consisting of 67.46 acres, located off Mt. Moriah Road, northwest of U.S. 15-501, at the Durham Orange County Line, and is contiguous to the City Limits.

To adopt "An Ordinance Annexing to the City of Durham an Area Hereinafter Described and Which Area Abuts Directly on the Corporate Boundary of the City of Durham, Under the Provisions of NCGS 160A-31 Et. Seq. (Evergreens at Mt. Moriah)"--effective from and after January 31, 2000.

Mayor Tennyson opened the public hearing.

MOTION by Council Member Larson seconded by Council Member Jacobs to continue public hearing on this item to the February 7, 2000 City Council Meeting without further advertising was approved at 7:48 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: VOLUNTARY ANNEXATION PETITION - ELLIS ROAD DEVELOPMENT (FY 2000-10)

1) Annexation

To receive citizens' comments concerning the annexation of Ellis Road Development, consisting of 70.97 acres located off Ellis Road and So Hi Drive, and is contiguous to the City Limits.

To adopt "An Ordinance Annexing to the City of Durham an Area Hereinafter Described and Which Area Abuts Directly on the

Corporate Boundary of the City of Durham, Under the Provisions of NCGS 160A-31 Et. Seq. (Ellis Road Development)"--effective from and after January 31, 2000.

Mayor Tennyson opened the public hearing.

MOTION by Council Member Larson seconded by Council Member Jacobs to continue public hearing on this item to the February 7, 2000 City Council Meeting without further advertising was approved at 7:48 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

2) **FIRE PROTECTION - CONTRACT WITH BETHESDA VOLUNTEER FIRE DEPARTMENT**

To authorize the City Manager to execute a half-base contract with Bethesda Volunteer Fire Department, Incorporated to provide supplemental fire protection services to the Ellis Road Development area of the City.

MOTION by Council Member Larson seconded by Council Member Jacobs to refer this item to the February 7, 2000 City Council Meeting was approved at 7:48 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: ZONING MATTER CASE P99-19, AUDUBON PARK - MACGREGOR DEVELOPMENT, PARKWOOD AND FRENCHMAN'S CREEK SUBDIVISIONS

Case: P99-19 (Public Hearing Continued from the December 20, 1999 City Council Meeting)

Applicant: Audubon Park - MacGregor Development

Location: 25.31 acres within the Audubon Park development, adjacent to the Parkwood and Frenchman's Creek subdivisions (portions of Tax Map 532D-3-4, 5 and 532-1-12)

Request: Rezoning from RD(D) (Rural District with a Development Plan); F/J-B (Falls/Jordan Protected Area) to PDR 2.243 (Planned Density Residential with 2.243 units per acre 2.244 maximum); F/J-B

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD(D); F/J-B) and placing same in and establishing same as PDR 2.243; F/J-B.

Zoning Committee's Recommendation and Vote: Approval (6-1)

City/County Planning Department's Recommendation: Approval

Note: Valid protest petition filed against this rezoning.

Mayor Tennyson opened the public hearing.

MOTION by Council Member Larson seconded by Council Member Jacobs to continue public hearing on this item to the February 7, 2000 City Council Meeting was without further advertising approved at 7:49 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

**SUBJECT: ZONING MATTER CASE P99-68, CITY OF DURHAM ANNEXATION
ZONING, EAST AND NORTH OF ELLIS ROAD BETWEEN ELLIS ROAD
AND NC 147**

Case: P99-68 (Public Hearing Continued from the December 20, 1999 City Council Meeting)

Initiated By: City of Durham (Annexation Zoning)

Location: 70.97 acre site located east and north of Ellis Road between Ellis Road and NC 147 (Tax Map 641, Block 2, Lots 3B, 3C, 4, 5, 6, 6A, 7 and 53A)

Request: R-20 (Residential 20 District) and RD (Rural District)- Initial zoning of property newly annexed into the City

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to establish R-20 and RD City zoning for the above described property newly annexed into the City.

Zoning Committee's Recommendation and Vote: 7-0

City/County Planning Department's Recommendation: Approval

Mayor Tennyson opened the public hearing.

MOTION by Council Member Larson seconded by Council Member Jacobs to continue public hearing on this item to the February 7, 2000 City Council Meeting without further advertising was approved at 7:49 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

**SUBJECT: ZONING MATTER CASE P99-30, WOOD PARTNERS, EAST SIDE OF
ELLIS ROAD, WEST OF THE ELLIS ROAD/NC 147 INTERCHANGE**

Case: P99-30 (Public Hearing Continued from the December 20, 1999 City Council Meeting)

Applicant: Wood Partners

Location: 70.97 acres on the east side of Ellis Road, west of

the Ellis Road/NC 147 Interchange, identified as Tax Map 641, Block 2, Lots 3B, 3C, 4, 5, 6, 6A, 7 and 53A
Request: Rezoning from RD (Rural District) and R-20 (Residential 20 District) to RM-16(D) (Multifamily Residential District, maximum of 16 dwelling units per acre with a Development Plan) and OI-2(D) (General Office and Institutional District with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD and R-20 and placing same in and establishing same as RM-16(D) and OI-2(D)

Zoning Committee's Recommendation and Vote: Approval (6-1)

City/County Planning Department's Recommendation: Approval

Mayor Tennyson opened the public hearing.

MOTION by Council Member Larson seconded by Council Member Jacobs to continue public hearing on this item to the February 7, 2000 City Council Meeting without further advertising was approved at 7:49 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: ZONING MATTER CASE P98-75, STATE PROPERTIES, NORTHEAST CORNER THE INTERSECTION OF CHAPEL HILL BOULEVARD AND JAMES STREET

Case: P98-75

Applicant: State Properties

Location: 1.6-acre site located on the northeast corner of the intersection of Chapel Hill Boulevard and James Street (Tax Map 91, Block 6, Lots 7, 8, 10)

Request: Rezoning from R-3 (Residential 3 District) to NC(D) Neighborhood Commercial District with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-3 and placing same in and establishing same as NC(D).

Zoning Committee's Recommendation and Vote: Approval (6-1)

City/County Planning Department's Recommendation: Approval

Note: Valid protest petition filed against this rezoning.

Mayor Tennyson opened the public hearing.

MOTION by Council Member Larson seconded by Council Member Jacobs to continue public hearing on this item to the February 7, 2000 City Council Meeting without further advertising was approved at 7:50 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: ZONING MATTER CASE P99-15 RDSK, LLC, WEST SIDE OF SOUTH MIAMI BOULEVARD AT THE LUMLEY ROAD INTERSECTION

Case: P99-15

Applicant: RDSK, LLC

Location: 20.84-acre site located on the west side of South Miami Boulevard at the Lumley Road intersection (Tax Map 645, Block 1, Lots 7, 8, 9, 10, 11, 12)

Request: Rezoning from R-20 (Residential 20 District) and NC (Neighborhood Commercial District) to I-2(D) (Light Industrial District with a Development Plan) and I-2 (Light Industrial District)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and NC and placing same in and establishing same as I-2(D) and I-2.

Zoning Committee's Recommendation and Vote: July 13, 1999, Approval (5-2); September 14, 1999, Approval (6-1)

City/County Planning Department's Recommendation: Approval

Mayor Tennyson opened the public hearing.

MOTION by Council Member Larson seconded by Council Member Blyth to continue public hearing on this item to the February 7, 2000 City Council Meeting without further advertising was approved at 7:50 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: ZONING MATTER CASE P99-22, BORDEN & BOCOOK, NC 54 ADJACENT TO THE I-40 OVERPASS EAST OF FAYETTEVILLE ROAD

Case: P99-22

Applicant: Borden & Bocook

Location: 13.41-acre site located on N.C. 54 adjacent to the I-40 overpass east of Fayetteville Road, identified as Tax Map 524, Block 2, Lot 8

Request: Rezoning from R-20 (Residential 20) to OI-2(D) (General Office and Institutional with a Development Plan); F/J-B

(Fall/Jordan Protected Area) and MTC (Major Transportation Corridor District)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20; F/J-B and MTC and placing and in and establishing same as OI-2(D); F/J-B and MTC.

Zoning Committee's Recommendation and Vote: Approval (6-0-1 [with Commissioner Harrell abstaining])

City/County Planning Department's Recommendation: Approval

Mayor Tennyson opened the public hearing.

MOTION by Council Member Larson seconded by Council Member Blyth to continue public hearing on this item to the February 7, 2000 City Council Meeting without further advertising was approved at 7:50 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

**SUBJECT: ZONING MATTER CASE P99-84, GOODWILL INDUSTRIES, INC.,
930 EAST MAIN STREET**

Case: P99-84

Applicant: Goodwill Industries, Inc.

Location: 930 East Main Street (Tax Map 133-1-1)

Request: Rezoning from I-2 (Light Industrial District) to GC(D) (General Commercial District with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of I-2 and placing same in and establishing same as GC(D).

Zoning Committee's Recommendation and Vote: [Scheduled for courtesy review at January 11, 2000 meeting]

City/County Planning Department's Recommendation: Approval

The administration recommends deferral of this case until the February 7, 2000 City Council Meeting due to lack of proper notification.

MOTION by Council Member Larson seconded by Council Member Jacobs to defer this item to the February 7, 2000 City Council Meeting was approved at 7:50 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: PROPOSED ZONING ORDINANCE AMENDMENTS

To receive a citizens' comments concerning revisions to:

- a. Section 4A.8 (Multi-Family Residential) regarding accessory dwellings and building frontages;
- b. Section 8 (Performance Standards) regarding buffers on Interstate 540; and
- c. Section 4C.1 (Office and Institutional-1) regarding personal service establishments as a permitted use in certain circumstances.

To adopt "An Ordinance to Amend the Durham Zoning Ordinance to Provide Additional Standards for Accessory Dwellings and Continuous Townhouse Setbacks within the Multi-Family Residential [RM] District"--(TC90-99).

To adopt "An Ordinance to Amend the Durham Zoning Ordinance to Provide Standards for the Development of Property Along Interstate 540"--(TC91-99).

To adopt "An Ordinance to Amend the Durham Zoning Ordinance to Modify Allowed Uses in the Office & Institutional 1 [O&I-1] Zoning District"--(TC92-99).

Joint City/County Planning Committee's Recommendation: Approval

Zoning Committee's Recommendation: Approval

Mayor Tennyson opened the public hearing.

MOTION by Council Member Larson seconded by Council Member Jacobs to continue public hearing on this item to the February 7, 2000 City Council Meeting without further advertising was approved at 7:51 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

[OTHER MATTERS]

SUBJECT: APPEAL OF THE DECISION BY THE PASSENGER VEHICLE FOR HIRE COMMISSION CONCERNING REVOCATION OF TAXICAB DRIVER'S PERMIT

To hear an appeal by Stephen Dixon regarding the decision by the Passenger Vehicle for Hire Commission to revoke his Taxicab Driver's Permit (Vote 3-0); and

To conduct the appeal under Chapter 22, Section 22-79 (a) (2) of the Durham City Code.

MOTION by Council Member Larson seconded by Council Member Wagstaff to defer this item to the February 7, 2000 City Council Meeting was approved at 7:51 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: REPORT/DISCUSSION ON THE GARRETT ROAD AND N.C. 54/751 INTERSECTION

To receive a report from the Administration concerning the Garrett Road and N.C. 54/751 Intersection.

Note: This item was referred to the January 31, 2000 Public Works Committee.

SUBJECT: TREE REMOVAL POLICY

To receive a report from the Administration on the Tree Removal Policy; and

To adopt the "Tree Removal Policy" [as revised] effective March 1, 2000 or upon Council's adoption of the related implementing ordinance amendments to Chapter 21 of the Durham City Code, whichever is later; and

To designate the Environmental Affairs Board as the official body to hear appeals of tree removal requests.

A motion was made by Council Member McKissick to approve the item based on the policy decision discussed at the Committee-of-the-Whole [policy to indicate appeals to the City Council]. This motion was seconded by Council Member Blyth.

Mayor Pro Tempore Clement spoke in opposition to the Environmental Affairs Board being the official body to hear appeals regarding tree removal requests.

Council Member Cheek spoke in opposition to this item. He stated that the council should not be involved in whether a tree should be removed. Also, he noted if the city has declared a tree to be a public nuisance, it is unfair for the owner to bear the expense.

Council Member Wagstaff spoke in opposition to this item. She stated the Environmental Affairs Board might not be as sensitive regarding tree removal in some communities.

MOTION by Council Member McKissick seconded by Council Member Blyth to receive a report from the Administration on the Tree Removal Policy; and

To adopt the "Tree Removal Policy" [as revised - appeals to City Council] effective March 1, 2000 or upon Council's adoption of the related implementing ordinance amendments to Chapter 21 of the Durham City Code, whichever is later; and

To designate the Environmental Affairs Board as the official body to hear appeals of tree removal requests was approved at 8:01 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Blyth, Hill, Jacobs, Larson, McKissick and Stith. Noes: Mayor Pro Tempore Clement and Council Members Edwards, Wagstaff, Burnette and Cheek. Absent: Council Member Langley.

Note: Based on the policy decision, the administration will add language to the policy that properly reflects such decision.

SUBJECT: CITY/COUNTY MERGER STUDY PHASE II - DMG MAXIMUS

MOTION by Council Member Larson seconded by Council Member Jacobs to authorize the City Manager to enter into a contract with DMG Maximus for a sum not to exceed \$46,950 for Phase II of the City/County Merger Study; and

To receive a report from the City Attorney concerning legal issues requiring further analysis was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: DOWNTOWN DURHAM MASTER PLAN

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to receive an additional briefing concerning the Downtown Durham Master Plan was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: REVISION TO THE CITIZENS REVIEW BOARD PROCEDURES

MOTION by Council Member Larson seconded by Council Member Blyth to adopt a revision to the Citizens Review Board Procedures was approved at 8:02 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cheek, Edwards, Hill, Jacobs, Larson, McKissick, Stith

and Wagstaff. Noes: None. Absent: Council Member Langley.

SUBJECT: MERGER STUDY COMMISSION

To approve guidelines for the Merger Study Commission and to set a Special City Council Meeting on Monday, January 31, 2000 at 5:30 p.m. to consider the adoption of a Resolution Establishing a Charter Commission.

A motion was made by Council Member Larson to approve the item as printed on the agenda. This motion was seconded by Mayor Pro Tempore Clement.

Mayor Tennyson provided council with a list of nominating groups for the Charter Commission.

Council Member Larson amended his motion to include the nominating groups as outlined in the Mayor's memo dated January 18, 2000.

Mayor Pro Tempore accepted the friendly amendment.

Council Member Blyth raised concern with the proposed list. She stated no neighborhood associations were represented. She noted that the list has six political organizations, six business organizations and organizations that pay no taxes.

Council Member Wagstaff spoke in support of elected officials being represented. She stated she needed more time to review the list and would not be support the nominating groups as a part of the motion.

Council Member Stith stated he was not as concerned with the list as others but he wanted to make sure citizens are included before a final vote is taken and included in the charter process.

Mayor Tennyson stated it was not his intention for the list to be a part of the motion this evening. The Mayor asked Council Member Larson to withdraw the list from his motion.

Several Council Members noted that the list represented a cross-section of the community.

It was suggested that the proposed list of nominating groups be considered as a draft which would help the City Attorney in coming with a resolution.

Council Member Larson amended his motion: "to approve the draft nominating list".

Council Member McKissick stated he would not be supporting the nominating groups as a part of the motion and requested that the

motion be severed.

Mayor Tennyson stated it was not his intention for the list to be a part of the motion this evening. The Mayor asked Council Member Larson to withdraw the draft list from his motion.

Council Member Larson withdrew the nominating groups from his motion.

At this time, discussion was held on the Charter Commission guidelines.

Council Member Blyth requested a revision to the guidelines: "The Mayor and Chair of the Board of Commissioners will provide a list of organizations for approval by the City Council and Board of County Commissioners which will be invited to select nominees for the Charter Commission."

Council Member Larson accepted the amendment.

MOTION by Council Member Larson seconded by Mayor Pro Tempore Clement to approve guidelines (as amended) for the Merger Study Commission; and

To set a **Special City Council Meeting on Monday, January 31, 2000 at 5:30 p.m.** to consider the adoption of a Resolution Establishing a Charter Commission was approved at 8:40 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Cheek, Edwards, Hill, Jacobs, McKissick and Stith. Noes: Council Members Burnette and Wagstaff. Absent: Council Member Langley.

CHARTER COMMISSION

The goal is to hold a referendum in November, 2000, on a charter for a merged government. The Charter Commission will report to the public by May 15th if it will not be able to complete its work in time to allow an election to be set for that date.

The Charter Commission will be a citizen driven process, using professional consultants as advisers and may include a staff liaison from the City and/or the County. The staff of the two governments will be directed to cooperate with and facilitate the work of the Charter Commission, but will not serve as staff to the Commission.

A project manager may be hired by the governing boards to serve as the primary staff person to the Charter Commission. The Charter Commission will have a budget of up to \$150,000 and may request additional funding if needed to complete its work. An attorney may be retained or legal counsel may be secured from the Institute of Government by the Charter Commission to provide independent legal advice.

The Charter Commission should include Durham County citizens who have specific areas of expertise in government and in the services provided by these governments.

No currently serving elected officials will be appointed to the Charter Commission. All Charter Commission members must be Durham County registered voters, whose taxes are current.

The Charter Commission will consist of up to 40 members and will be expected to work through a committee structure. The Mayor and Chair of the Board of Commissioners will provide a list of organizations for approval by the City Council and the Board of County Commissioners which will be invited to select nominees for the Charter Commission. After reviewing the list of nominees, at-large members of the Commission will be appointed to ensure representation of the diverse population of the county. Attendance at meetings of the Charter Commission will be kept and individuals must have attended at least 80% of the meetings to have a vote on the final adoption of the proposed charter.

The City and County Attorneys will draft the formal resolution setting forth the powers of the Charter Commission, which will be broadly empowered, but not authorized to call a referendum in its initial charge. That draft will be available to the elected bodies and the public. A special meeting of the Commissioners and the Council will be scheduled for Monday, January 31st, at 5:30 p.m. to consider adoption of the resolution.

If the Charter Commission is formed, the chair(s) will report to the elected bodies by March 30th and May 15th, 2000, as to the progress of the Charter Commission's work.

There being no further business to come before the Council, the meeting was adjourned at 8:41 p.m.

D. Ann Gray, CMC
Acting City Clerk

